

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHIRLEY ANN DIMPS,

Plaintiff,

-against-

NEW YORK STATE OFFICE OF MENTAL HEALTH,
MANHATTAN PSYCHIATRIC CENTER, and KIRBY
PSYCHIATRIC CENTER,

Defendants.
-----X

* Filed Electronically

**NOTICE OF MOTION
OF DEFENDANTS TO
DISMISS THE
COMPLAINT**

10-CIV-6148 (VM) (JCF)

PLEASE TAKE NOTICE, that upon the accompanying Memorandum of Law in Support of Defendants New York State Office of Mental Health (“OMH”), OMH’s Manhattan Psychiatric Center (“MPC”) and OMH’s Kirby Forensic Psychiatric Center (“KFPC”) (“Defendants”) Motion to Dismiss the Complaint, dated November 23, 2010, and all prior pleadings and proceedings herein, Defendants by their attorney, Andrew M. Cuomo, Attorney General of the State of New York, will move this Court before The Honorable Victor Marrero, United States District Judge, United States District Court, Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007-1312, on a date and at a time designated by the Court, pursuant to Rule 12 (b)(1) and (6) of the Federal Rules of Civil Procedure for judgment dismissing the Complaint and all claims against Defendants because: (1) Plaintiff’s Title VII claim is untimely because the administrative charge was not filed within 300 days of the alleged discriminatory act; (2) Plaintiff’s State discrimination claim against the Defendants is barred by the Eleventh Amendment and Plaintiff’s election of remedies; and (3) Plaintiff does not state a plausible claim of discrimination against Defendants under federal statutory and case law; and for such other and further relief as the

Court deems just and proper.

Dated: New York, New York
November 23, 2010

ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
By:

S/ Jose L. Velez
JOSE L. VELEZ
Assistant Attorney General
120 Broadway, 24th Floor
New York, New York 10271
(212) 416-8164

To: Shirley Ann Dimps
Plaintiff Pro Se
20-31C West Mosholu Parkway South
Bronx, New York 10468
(917) 474-2376

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JOSE L. VELEZ, certifies that:

He is an Assistant Attorney General in the office of ANDREW M. CUOMO, the Attorney General of the State of New York, attorney for Defendants New York State Office of Mental Health ("OMH"), OMH's Manhattan Psychiatric Center ("MPC") and OMH's Kirby Forensic Psychiatric Center ("KFPC"). On November 23, 2010, he served the annexed Notice of Motion upon the following named person:

Shirley Ann Dimps
20-31C West Mosholu Parkway South
Bronx, New York 10468

Plaintiff Pro Se in the within entitled action by depositing a true and correct copy thereof, properly enclosed in a post-paid wrapper, in a post office box regularly maintained by the United States Postal Service at 120 Broadway, New York, New York 10271, directed to said person at the address within the State designated by her for that purpose.

S/ Jose L. Velez
JOSE L. VELEZ

Executed November 23, 2010

* Filed Electronically

**CERTIFICATE
OF SERVICE**

10-CIV-6148 (VM) (JCF)

Docket No. 10-CIV-6148 (VM) (JCF)

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NOTICE OF MOTION

ANDREW M. CUOMO
Attorney General of the
State of New York

ATTORNEY FOR
State Defendants

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120 Broadway, 24th Floor
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